

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

FLASH 90 LTD.,

Plaintiff,

- against -

YEVREISKI MIR

Defendant.

Docket No. 1:21-cv-05607-PKC-SJB

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff Flash 90 Ltd. (“Plaintiff”) by and through its undersigned counsel, as and for its Amended Complaint against Yevreiski Mir (“Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction, distribution and public display of a copyrighted photograph of a police officer at a protest. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant is organized and/or transacts business in New York and is registered with the New York Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Plaintiff is a professional photography company in the business of licensing its work for a fee, having a usual place of business at 14 Hillel Street in Jerusalem Israel.

6. Upon information and belief, Defendant is a limited liability company duly organized and existing under the laws of New York, with a place of business at 1100 Coney Island Ave., #400, Brooklyn, New York 11230

7. Upon information and belief, Defendant is registered with the New York Department of State Division of Corporations to do business in New York. [DOS ID#: 3644602].

8. At all times material hereto, Defendant has owned and operated a website at the URL: <https://evreimir.com.com/> (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

9. Plaintiff is a professional photographer by trade who is the legal and rightful owners of certain photographs which Plaintiff licenses to online and print publications.

10. Plaintiff has invested significant time and money in building Plaintiff’s photograph portfolio.

11. Plaintiff has obtained active and valid copyright registrations from the United States Copyright Office (the “USCO”) which cover many of Plaintiff’s photographs while many others are the subject of pending copyright applications.

12. Plaintiff's photographs are original, creative works in which Plaintiff owns protectable copyright interests

13. Plaintiff, via work-for-hire, created a photograph of a police officer at a protest (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

14. On or about May 17, 2020, Plaintiff published the Photograph to its website at www.flash90.com for purposes of commercial distribution. A true and correct copy showing first publication of the Photograph is attached hereto as Exhibit B.

15. Plaintiff is the author of the Photograph and has at all times been the sole owner of all rights, title and interest in and to the Photograph, including the copyright thereto.

16. The Photograph was registered with the USCO and was given Copyright Registration Number VA 2-213-011, with effective date of July 20, 2020 (the "011 Registration"). A true and correct copy of the 011 Registration certificate is attached hereto as Exhibit C.

B. Defendant's Infringing Activities

17. Defendant is the registered owner of the Website and is responsible for its content.

18. Defendant is the operator of the Website and is responsible for its content.

19. The Website is a popular and lucrative commercial enterprise.

20. The Website is monetized in that it contains paid advertisements and, on information and belief, Defendant profits from these activities.

21. The Website is monetized in that sells merchandise to the public and, on information and belief, Defendant profits from these activities

22. On or about June 29, 2020, Defendant re-published the Photograph on its Website (the “Infringing Article”). A true and correct copy of the Infringing Article is attached hereto as Exhibit D.

23. Defendant did not license the Photograph from Plaintiff for its Infringing Article, nor did Defendant have Plaintiff’s permission or consent to reproduce, distribute or publicly display the Photograph on its Website.

24. As of November 14, 2022, Defendant’s Website remains active and updated.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT)
(17 U.S.C. §§ 106, 501)

25. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-24 above.

26. Defendant infringed Plaintiff’s copyright in the Photograph by reproducing, distributing and publicly displaying the Photograph on the Infringing Article.

27. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

28. The acts of Defendant complained of herein constitute infringement of Plaintiff’s copyright and exclusive rights under copyright law in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

29. Upon information and belief, the foregoing acts of infringement by Defendant have been willful and/or in reckless disregard of Plaintiff’s rights.

30. As a direct and proximate cause of the infringement by the Defendant of Plaintiff’s copyright and exclusive rights under copyright law, Plaintiff is entitled to damages and Defendant’s profits pursuant to 17 U.S.C. § 504(c) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded statutory damages pursuant to 17 U.S.C. § 504(c);
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Uniondale, New York
November 14, 2022

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